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CONWAY ROBINSON.

It is impossible to draw, in a few strokes, the portrait of Virginia's Justinian.

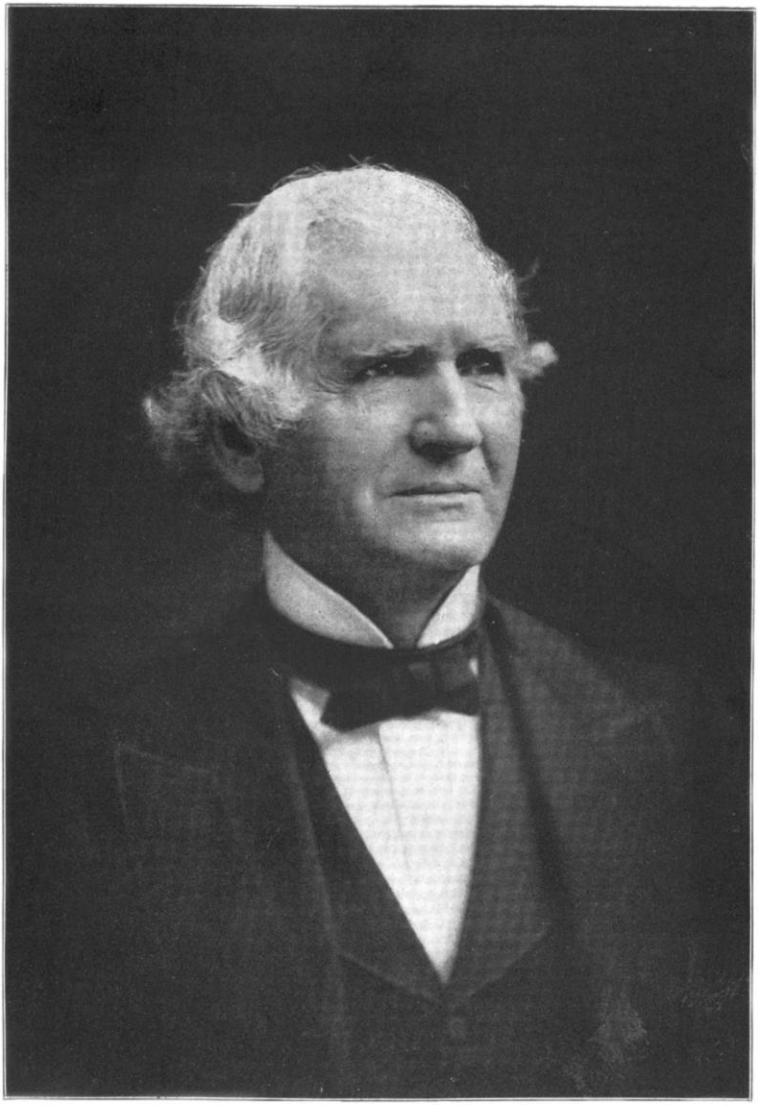
He was born at Richmond, in that State, on the 15th of September, 1805, and from ancestry, on each side, distinguished, in many directions, in both hemispheres.

He may be said to have come into life, if not already a lawyer, yet, at least, under the gladsome light of jurisprudence.

It was Agnes Conway Moncure whom John Robinson, his father, had met at the altar, in 1801. And, from 1787, John Robinson had been—principal or assistant—clerk to one or more of the local courts at Richmond.

It would be difficult to point to a class of public servants of the present day possessing the virtues and qualifications which, by universal consent, belonged, at the commencement of the century, to the clerks of the Virginia tribunals. Through no other instructors, at home or abroad, could the youth of that Commonwealth receive equal preparation for the most noble and difficult of professions. Law had not yet begun to be learned "by mail," through "the Chatauqua system," nor under "professors" and "judges" recruited, in many instances, from inferiors at the bar.

From active association with writs and entries, the elder Robinson had retired, as early as 1812, nor did he renew such association before 1827, when, as clerk of the State Circuit Court at Richmond, he entered upon duties which he continued to discharge with the highest credit and efficiency, until his decease, in 1850, in the seventy-seventh year of his age. But, in charge of the clerk's offices of two of the local courts at Richmond, was to be found, after 1812, the accomplished Thomas C. Howard, and to him, as assistant and disciple, from



CONWAY ROBINSON.

the private school of Mr. Terrill, came, in 1818, the subject of the present sketch, then but thirteen years of age, renouncing, through natural selection, the groves and porches from which four of his brothers, one only his senior, were to bear philosophy and letters to various walks of intellectual life.

After a tuition of six years under Mr. Howard, as invaluable as it was agreeable, and upon the separation, in 1824, of the two clerks' offices last mentioned, Mr. Robinson was selected to conduct the more important of them, and presided over it for three years, becoming also, in 1826, assistant clerk to a third tribunal, known as the General Court. The timely, useful and admirable volume which he published in this year, under the title of "Robinson's Forms" (a second edition of which appeared in 1841), justifies the belief that confidence and approval could then bestow upon him, in his office, nothing that was, in any degree, superior to his merits.

It was, as it were, a divine accident—*fors quædam divinitus*—which united for a season in common labors under Mr. Thomas C. Howard, his son, Nathaniel Pope Howard, and Conway Robinson—an association which afterwards led young Howard, crowned with the first honors of William and Mary, to the law-office of Mr. Robinson, and diffused from thence through each, for nearly half a century, the love, learning and moral resemblance of the other.

The profound and accurate professional learning, the varied, beautiful and attractive attainments, the lamentable and appalling fate of his "loved Lycidas," have been touchingly remembered by Mr. Robinson, as an author.

In the spring of 1827, when scarce beyond his majority, Mr. Robinson was admitted to the Richmond bar, but was, nevertheless, in November, 1828, appointed, and until July, 1831, continued to remain, Clerk of the General Court.

The forum into which he had stepped was unsuited to common endowments and congenial only to the first order of learning and ability. Wickham, Stanard, Leigh, Johnson, and others, were there meeting in those splendid rivalries but imperfectly recorded in the pages of Randolph. The law of Virginia had been moulding itself, in some measure, to the greatly altered conditions arising from Independence and the establishment of a National government, but that law was still in process of formation, or transition, and if here and there the unfettered genius of Marshall had shed its Promethean heat upon the cold text of the Federal constitution, the boundaries of State and National

authority remained, for the most part, wholly unadjusted and unrecognized.

To this forum, and in this state of the law, Mr. Robinson had brought not only the habits of accuracy and familiarity with pleadings and forms and modes of procedure, acquired during his long connection with clerks' offices, but a wide and liberal knowledge, derived from patient and unwearied application, of the great principles of jurisprudence. He had brought, also, the profoundest convictions of the nobility and obligations of his profession, a mind singularly clear, honest and discriminating, and a character which, virtuous by nature, had felt the healthful impress of daily association with illustrious participants in the golden age of America.

He had brought, moreover, an industry, a faculty of analysis, an ability and passion for continuous investigation and research, rarely equalled in any age or clime.

All that he thus carried into his profession he there preserved in active and improving exercise, through the long course of fifty-seven years—*Primus ad extremum similis sibi.*

The reported case, in the highest court of Virginia, with which his name first becomes professionally associated, is that of *Newsum v. Newsum*, 1 Leigh, 86, decided at February term, 1829, in which, though opposed by Mr. Stanard, he secured the affirmance of a jndgment in trover, the court being then composed of Brooke, President, with Cabell, Coalter, Green and Carr as Associates.

In an upper apartment, facing the State Capitol, of the City Hall, and dedicated to the accommodation of the Federal Courts, at Richmond, Mr. Robinson, in 1831, in *Waller v. Thornton's Adm'rs*, 2 Brock. 422, made his earliest appearance in practice before Chief Justice Marshall, whose acquaintance and friendship in social life it had long been his happiness to enjoy, though the names of counsel engaged in that case have not been preserved by the Reporter.

At January term, 1839, he was admitted to the bar of the Supreme Court, over which Taney, with Story on his right hand, was then presiding, and appeared for the plaintiff in error, in *Rosse et al. v. Duval*, 13 Pet. 45, where the judgment below was reversed, and for the appellees, in *Burton v. Smith et al.*, Id. 465, where the decree below was affirmed.

To that bar, at the same term, were admitted, from Virginia, R. C. L. Moncure, Robert C. Nicholas and James Lyons; from North Carolina, George E. Badger; from New York, Silas Wright, Jr., and

David Dudley Field; and from Baltimore, William Schley and I. Nevitt Steele.

And in cases at that term heard by the Court there might be seen, as if in welcome to learning claiming kindred with their own, Webster, Walter Jones, Sergeant, Ingersoll, Ogden, Southard, Grundy, Crittenden, Gilpin, John Nelson, and Reverdy Johnson—names which have shed imperishable lustre upon American jurisprudence.

Mr. Robinson had now, for twelve years, been extensively engaged before the civil tribunals of first instance at Richmond, as well as before such terms as were there held of the Court of Appeals; for he seems not to have found it convenient to attend that court, when elsewhere assembled, except upon some particular occasions, in after times, when his duties as Reporter required his presence at Lewisburg.

With Chief Justice Taney his personal relations were those of great cordiality and intimacy. But what, at any period, might be the extent of his practice in the Federal Circuit at Richmond, before that consummate master of legal science, can be only conjectured; such decisions upon the Circuit of Taney as have been rescued by Mr. Campbell from oblivion being confined to the district of Maryland.

But amid such his particular engagements Mr. Robinson had not been unable to direct his attention to other objects of interest and importance.

He had assisted, in 1831, in founding the Virginia Historical Society, an institution towards which he was ever afterwards to manifest the most active and generous attachment. He presented it, from time to time, with documents, foreign and domestic, of the highest value, contributed to enrich its gallery with historic portraits, and penned for its archives numerous learned and instructive treatises, including one, long known to and applauded by the scholar, concerning discoveries in the new world, down to 1519, and voyages to and along the North Atlantic from 1520 to 1573, and another, still unprinted, upon like voyages between 1573 and 1606.

To MSS. contributed by Mr. Robinson to this Association, historical publications from the most eminent of American universities continue to refer in terms of great deference and obligation.

In 1832 appeared the first volume of his accurate and luminous *Virginia Practice*, which was followed by a second volume, in 1835, and by a third, in 1839, the whole forming the only treatise which had ever been attempted upon that large and technical branch of local law of which it treated.

To this work, after the lapse of more than half a century, the State practitioner still turns to take his reckoning and to renew his acquaintance with the origin of principles.

It was in 1835, and in the course of a tour which, for necessary recreation, he had undertaken through the Northern and New England States, that Mr. Robinson had the honor to form the acquaintance of the learned and gifted Chancellor Kent, and to receive from the Hardwicke and Blackstone of his country a gratifying encomium upon the volumes then published of the *Virginia Practice.*

With the locomotive in its infancy, and railways advanced but little beyond the stage of experiment, the Legislature of Virginia had created, in 1834, the Richmond, Fredericksburg and Potomac Railroad Company. Two years afterward Mr. Robinson, yielding partly to the solicitations and attachment of his brother, Moncure, an experienced engineer and a principal promoter of the company, and partly to his own conceptions of the great public utility of the enterprise, consented to become president of the corporation, though its financial condition was then one of extreme despondency and its road had been constructed over but half the route from Richmond to Fredericksburg. But under his energetic and sagacious management, within seven months after his acceptance of such presidency, the line was fully completed and operated to the latter point, and, in November, 1838, the company, notwithstanding the disastrous panic of the previous year, was so permanently established in activity and credit that he felt himself at liberty, despite the unanimous entreaties of its stockholders, to withdraw from its control. Of this company, which afterwards extended its road to the Potomac, Mr. Robinson remained, during his life, the ultimate legal adviser, participating, in some form, in every litigation of importance with which it was connected.

But, before reaching the bar of the Supreme Court, he had entered into a relation, sacred and tender in itself, and far too happy in its consequences to awake even that rivalship and suspicion which have been supposed to be native to the bosom of the law. On July 14, 1836, he had intermarried with Mary Susan Selden Leigh, daughter of the distinguished Benjamin Watkins Leigh, then still a Senator in Congress from Virginia, a lady pious in soul, of strong and cultivated intelligence, and graced with every charm of disposition, of person and of manner. Through the sunshine and shadow of more than forty-seven years, this union, fruitful of scions well worthy of their stems, was that, on the one hand, of knightly deference, tenderness

and devotion, and, on the other, of love, honor and such obedience as concedes, because it anticipates and returns, every desire of the object in which it delights.

Upon the retirement of Mr. Leigh from the office of Reporter, Mr. Robinson, on April 1, 1842, became his successor, but, after publishing the two volumes known as Robinson's Virginia Reports, the first containing in his preface much important information concerning the earlier judicial system of Virginia, and each distinguished for thoroughness and felicity of execution, he resigned his position in 1844, in consequence of increasing employment in other directions, and was followed by Mr. Grattan, whose able and conscientious services, for upwards of thirty-seven years, are so familiar and invaluable to the profession.

Mr. Robinson was shortly to be embarked, however, upon labors which, though his conception of public duty could not permit him to decline, were such, in their nature, as must compel his withdrawal, for a considerable period, from much the larger portion of his practice.

In conjunction with the learned, brilliant and judicious Mr. John M. Patton, he was selected by the Legislature, in February, 1846, to revise the civil code, and, in March, 1847, to revise the criminal code of Virginia. The work achieved by these gentlemen, under such their appointment, had engaged, for three years, most of their attention, and, with some particular alterations, not, it is to be feared, in general, for the better, was enacted into law, in August, 1849, to take effect on July 1, 1850. This work, reconciling the contradictions and incongruities of the local law, reduced it, with order, simplicity and precision to rules of action wisely adapted, at the time of their publication, to the interests of the Commonwealth and to the genius and traditions of her people. In the attainment of these results, the jurisprudence and practice of England, and of many of the States of the Union, had been diligently consulted, brought into comparison and laid by the Revisors before the Legislature, in reports which were themselves *corpora jurum*.

In the article of pleading, the new code, following, and, in some respects improving upon, the rules adopted by Massachusetts, in 1836, was much in advance of what had hitherto been attempted in England.

Yet it had been the fixed purpose of the Revisors to eliminate the defects, without destroying the substance, of the common law system.

It was the persuasion of Mr. Robinson, and of his associate, that for the intelligent development and investigation of the precise matters

in controversy between litigants in a court of justice, regulations must ever be found indispensable, and that rules long established and perfectly comprehended were to be renounced, if at all, only from considerations of obvious advantage. The wisdom of these conclusions will be felt and admitted by all who are brought into contact with the courts of New York, or who have taken the trouble to become acquainted with the actual course of early decision under the Judicature Acts, whatever may have been claimed in England for the effect of those statutes.

The new Code of Virginia was still damp from the press, when alterations in its text were rendered imperative.

A new Constitution had been adopted for the State, in November, 1851, and the Legislature had been assembled, at the commencement of the following year, to give effect to such features of the organic law as might be found incapable of self-execution. To contribute in adapting the new code to the requirements of the new Constitution, Mr. Robinson had consented to become a member of that Legislature, and in such assistance was prominently and efficiently engaged during a protracted session.

At a particular crisis he had been chosen, in 1849, to a seat, which, again obeying the call of public duty, he felt constrained to accept, in the City Councils of Richmond, where, without pecuniary reward, he continued to serve, except during his connection with the Legislature, until the spring of 1853.

To his large perceptions, "looking before and after," and to the energy with which they were prosecuted, Richmond became mainly indebted for her substantial advances, during that period, in municipal government, particularly in respect to public education, gas, water, streets, parks and the tasteful improvement of the Capitol Square.

Though endowed by nature with a constitution far more robust than might be inferred from a stature which, though tall and erect, was without athletic outline, and possessed, through life, of a general health which corresponded with his native vigor, Mr. Robinson found it necessary, in 1853, as in 1835, to suspend, for an interval, his customary employments. He proceeded, in the former year, to England, where he was received with much cordiality and attention, and contracted permanent friendships with many distinguished characters, and, amongst them, the eminent Justices with whom an Appendix to the seventh volume of his Practice has made us so agreeably acquainted. During his sojourn in that country he made himself familiar with the

actual administration of justice at Westminster, and collected many valuable historical documents relating to Virginia and to Colonial America.

Returning to his native city, he there published, in 1854, the first volume, and before the summer of 1858 two further volumes, of a work shortly to be mentioned with more particularity, but which, though receiving the name of "*Practice*," must by no means be confounded with that treatise of special local application already described as his "*Virginia* Practice."

But the period had now arrived when he was to retire from Virginia. The emotions with which he passed beyond her borders were such as were natural to filial piety, when parting from the most tender of mothers to engage, under her collective inspirations, in advantageous service to mankind.

For access to more extensive libraries than might then be found at Richmond, Mr. Robinson, in the summer of 1858, removed from that city to the District of Columbia, where, at "The Vineyard," adjoining the Soldiers' Home and looking across the Potomac upon the hills of Virginia, he had reared an attractive residence, adapted to the hospitality of its owner and surrounded by all the evidences of a refined and cultivated taste.

At the time of his removal from Richmond he was recorded in the Virginia Reports as counsel before the Court of Appeals in one hundred and thirty-seven cases, embracing a great variety of questions (amongst which were those involved in the will of John Randolph of Roanoke), and bringing him in honorable emulation with every distinguished gentleman, perhaps, of the Richmond bar—with the exception of Mr. Wickham, who had retired from practice shortly after Mr. Robinson first appeared before the highest court of the State—Leigh, Johnson and Stanard being, for many years, the principal opponents of Mr. Robinson before that tribunal.

From his admission to the bar of the Supreme Court until his removal to The Vineyard, but fourteen reported controversies had been brought, in any manner, or by any process, into that tribunal from Virginia, and in five of these cases Mr. Robinson was recorded as counsel.

It is a splendid tribute to the administration of justice by the Judges of that Commonwealth, and of the Circuit therein over which Taney presided, that their decisions, for so long a period, should have been thus generally accepted as conclusive.

The decisions of the Court of Appeals, indeed, were never reversed in the Supreme Court, for more than half a century (95 U. S. 704), after *Martin v. Hunter's Lessee*, 1 Wheat. 304.

To results so honorable and impressive the services of a learned and conscientious bar must be perceived to have been necessary assistants, and at such a bar Mr. Robinson might stand "unbonnetted" before the worthiest.

From 1858 he appeared, at every term, before the Court of Appeals at Richmond, down to and including its July term, 1860, and before the Supreme Court until, and embracing, its December term, 1860, which closed on March 14th, 1861, when the greatest of conflicts almost immediately followed.

As no one, less than Mr. Robinson, had contributed to the crisis, none, more than himself, beheld it with anguish and dismay. The correctness and serenity of his understanding, the benevolence of his character, and the habitual contemplation and practice of right and justice, had rendered him a stranger to every sentiment of sectional animosity or prejudice. He had loved Virginia, but he had looked with patriotic attachment upon the Union, and upon each of the parts of which it was composed. He had been bred, moreover, in those principles of constitutional interpretation which had been established under the great name and authority of Marshall. Had he owned the slaves of the South, he would have been as willing, no doubt, as Virginia's greatest Captain, to surrender them in preservation of national integrity. But he never attempted to conceal that, amid actual and accomplished war, it was impossible for him to incline in hostility or censure towards the land of his kindred and his birth. Three sons, as full of honor as of youth, had left the college for the Southern flag, two of them to offer, beneath its folds, the last and supreme testimony of valor to the holiness of conviction. Remaining within the District of Columbia, he would have felt stained and dishonored by any "unproportion'd thought" against the Federal authority, whose protection, in theory at least, he enjoyed. Yet he would not suffer a lofty and conscious rectitude to be impeached by punitive and degrading inquisitions which history informed him had been so frequently employed in the suppression of civil liberty. To the "test-oath"—as citizen and as counsellor—he absolutely and indignantly refused to subscribe.

It was not until December term, 1866, that the Supreme Court, recognizing an inattention to the National Constitution, rescinded the rule by which it had imposed such an oath, as the condition of prac-

tice, upon every member of its bar. And it was not until the same term that Mr. Robinson reappeared before that tribunal, to find Chase occupying the chair of Taney, and Swayne, Miller, Davis and Field the seats once held by Daniel, Campbell, McLean and Catron.

He had first reappeared before the Virginia Court of Appeals, at April term, 1866. Moncure (his cousin), with whom, in 1839, he had come to the bar of the Supreme Court, whom he had left, in 1860, an associate judge of that Court of Appeals, had now become its president, and Joynes and Rives were seen beside him. A Military Court of Appeals had not then been conceived. But in the District and Circuit Courts of the United States, at Richmond, sat the American Jeffries, who had recently libeled a community in his charge to a grand jury, and was to succeed, through accumulated misconduct, in leaving the name of *Underwood* execrated by mankind. (11 Wall. 267; 93 U. S. 278; 23 Gratt. 409.)

Mr. Robinson could not be insensible to the changes which, in five years, had occurred in the tribunals to which his practice extended, but explaining them by their true causes, he perceived but in few of them any cause for despondency.

As an author, he subjected, at all times, the decisions of the Supreme Court to the same tests of principle, reason and authority which he applied to the rulings of less exalted tribunals. But for the learning, dignity and virtue of that Court, for its composing and conservative influence in government, he ever manifested and inculcated the deepest veneration, and towards those of its members with whom circumstances had enabled him to enjoy more than acquaintance he indulged a warm and unaffected attachment.

The practice which Mr. Robinson resumed before the Virginia Court of Appeals, he continued for some twelve years, but seems to have abandoned after March term, 1878.

From December, 1866, until his decease, he appeared before the Supreme Court at nearly, if not quite, every term, discussing questions, among others, arising under the supreme law of the land, from a condition of war, in admiralty, out of the law merchant, upon patents for inventions and in respect to Spanish law in Texas, and Roman law in Louisiana.

His last argument before that tribunal was concluded on the 27th of November, 1883, in two causes of much importance, involving the ownership of the riparian privilege on the Potomac, at Washington. (109 U. S. 672.)

The object with which Mr. Robinson had exchanged his place of residence had enabled him to publish at Richmond, in 1860, the fourth volume of his Practice, and between that year and 1874 the three further volumes of the same work.

This task of twenty years—*viginti annorum lucubrationes*—he entitled "The Practice in Courts of Justice in England and the United States."

The title selected for this extraordinary repository of learning was scarcely such as to convey a sufficient intimation of its actual scope or nature. With "Practice," in that sense to which we refer the volumes of Chitty, Tidd and Archibold, the work has no connection whatever. It constitutes, in fact, the most profound and comprehensive of existing treatises upon private rights and remedies, at law, touching the person, and things personal, including such of these rights and remedies as repose upon estoppel and the doctrine of *res judicata*. Commencing this *magnum opus*, to consist of more than six thousand pages, at an age when but few men may be reckoned as still in their prime, its author might well feel "at times discouraged by the magnitude of the undertaking" "and apprehensive that all within his aim could not be done in a lifetime." But he was constantly enheartened and emboldened by applause from the first artists in jurisprudence.

As often as the volumes of this great contribution to legal science were communicated to the public, their merit was commended by the learned on either side of the Atlantic. The whole left, and still leaves, Mr. Robinson, upon the matter it embraces, without a rival or a model, in England or America. The work was like his life. No inaccuracy has been detected in the one, no blemish discovered in the other. Every subject in this treatise is divided, with great judgment and without unnecessary refinement, into the parts of which it most properly consists, and each of these parts, after a general survey of their aggregate, is critically examined in its order. The style of the author is admirably adapted to a work of instruction; the authorities cited, numberless as they appear, never impede the discussion, and results are reached with the utmost brevity and directness consistent with entire perspicuity,—*Semper ad eventum festinat.*

Mr. Robinson published, in 1882, the first volume, containing more than 1,000 pages, of his "English Institutions;" a learned and exhaustive exposition of constitutional and juridical progress in England, from the days of the Romans until the death of Henry VIII. A second volume, in continuation of the first, had been nearly completed

at the time of the death of its author, who left a wealth of material, relating to various legal and historical subjects.

These two volumes were designed to be introductory to an extended treatise upon the jurisdiction, pleadings and practice of the Chancery.

Hasty and imperfect, of necessity, as the glance taken of the career of Mr. Robinson, it can leave no room for doubt that his services to his State, in the cause of jurisprudence, were far too extensive to admit of definite calculation. It may be said, however, that in the highest of intellectual departments, in which many eminent men have distinguished themselves, it was the fortune of Mr. Robinson, more than of any other, to direct the progress and to mould the conscience of the Commonwealth, and such have been the uncommon obligations to this author, of the practitioner and of the judge, that it has been felt, perhaps, by each, with almost the same frequency, *Quod spiro et placeo (si placeo), tuum est.*

The professional and literary achievements of Mr. Robinson owed nothing to the typewriter (that friend of impulse, error and prolixity), nor to such classified divisions of labor as are to be found in the law offices of to-day. Yet he became familiar with the Latin, the Spanish and the French, conducted an extensive private correspondence, at home and abroad, and was widely acquainted with history, biography, art, poetry, fiction, travel and philosophy. Hannah More, Maria Edgeworth and Miss Martineau were read between Locke, Temple and Mahon.

His private establishment was so regulated that each reunion at the family board placed cares beyond its circle, and was prolonged in order to refresh and expand the heart, not less than to nourish the body. He was, at all times, apparently free from hurry, pressure, urgency or haste.

By what miracle had such and so many results been accomplished? He seems, indeed, to have been endowed with some supernatural faculty of genius, which created leisure from the progress of active and unbroken occupation, which multiplied the hours at its pleasure, or compelled time itself to stand still in the presence of learning and virtue.

Except in the instances and emergencies already mentioned, he was never in public life. His occupations had naturally separated him from intimate contact and acquaintance with the people at large, and his tastes were averse from the excitements and temptations of politics.

It was the conviction of Mr. Robinson that cases, in general, had been finally gained or defeated before reaching the reviewing tribunals.

During his practice in courts of first instance, he permitted nothing to be left to chance or conjecture, in the event of appeal. Every detail was carefully weighed, and each that might prove of importance was required to find its appropriate place upon the very face of the record. He endeavored to impress his views, in this regard, upon all to whom he stood in the relation of adviser or instructor.

His demeanor towards his brothers of the bar was ever chivalric, generous and confiding. In conference, he bestowed upon the youngest of his associates the attention and deference be manifested towards the most experienced.

To the student and the immature in practice, entangled or bewildered in technicalities and abstractions, he was invariably accessible, gracious and paternal, dispelling each mist-exhaling doubt and pouring the light of learning round every obscurity.

Collectasque nubes fugat solemque reducit.

His attitude towards the court was one of dignity, reverence and open-hearted integrity. No judge, worthy of his office, could listen to any extended argument from Mr. Robinson without some tribute, however secret, to his candor, learning and faultless command of the record.

If collected and arranged, like those of Mr. Charles O'Connor, for consultation by the profession, his briefs would prove at least equally instructive and valuable.

To the art of oratory, in the sense of engaging the imagination and moving the passions of an audience, he never, perhaps, aspired. But in the cardinal and essential element of forensic eloquence, in the faculty of enlightening the understanding and satisfying the judgment, he was always fluent, able and effective.

The arguments of Mr. Robinson were never disordered, nor confused, by innutritious or unassimilated learning. He lived without occasion to feel *inopem me copia facit.* Numerous as might be the authorities which prudence or necessity required him to rally in a given direction, their ultimate and fundamental principle was extracted and presented to the court, through short and simple processes, and in terms too exact and explicit to admit of misconception. That he possessed, in considerable decree, the qualities of originality and invention, and could exhibit, in discussion, uncommon powers of reasoning and of illustration, his reported arguments upon several novel complications in jurisprudence survive to testify. But he never suffered himself, as counsel, to indulge in those merely intellectual exercises which, though

incapable of results, are sometimes mistaken for legal argument. He recognized the distinctness of the departments into which government, in this country, had been divided, and deemed it incumbent upon the Judiciary, not to alter nor repeal, but to ascertain and apply, that which was law. It was from this conservative standpoint that his discourses, in general, at the bar were made to proceed.

The authority conceded, at an elder period, under the Maryland practice, to the written opinions of Dulaney, was such as, under a similar practice in Virginia, must have been there yielded to like opinions from Mr. Robinson. In 1876, the Court of Appeals of the latter State actually conferred, indeed, upon one of its barristers (Mr. William Green) the honor, not beyond his merits, of soliciting his views upon an important question then before it. (27 Gratt. 357.)

The conversations of Mr. Robinson with members of the Supreme Court have been deemed worthy of citation, during the current year, by a character scarcely more distinguished for attainments than for his delicate sense of judicial propriety, the learned and accomplished Mr. Justice Gray. (156 U. S. 167–168.)

The commercial spirit which, even in his lifetime, had so filtered through the profession as to threaten to reduce it to a trade, was viewed by Mr. Robinson with melancholy and painful reflections, and he declared fit for impeachment only judges who could divide amongst counsel the estates of the living, much less of the dead.

Receiving from wealth only the just value of his professional services, he would accept from the less favored in fortune no more than their circumstances in life would suffer them to offer without inconvenience. And the labors in which he engaged, gratuitously, and without the desire of pecuniary return, were of enormous aggregate.

Like all men, in civil life, of really superior parts, Mr. Robinson was distinguished for the artlessness and simplicity of his character and deportment. He seemed to be entirely unconscious of his merits. He immediately detected, of course, any departure, by bench or bar, from established principles, but this he did from force of mental habit, and as free from self-conceit and egoism as the mathematician who perceives that a given figure fails to answer the description of a circle, when the circumference of the figure denotes that it is not everywhere equally distant from its center. Complimented upon some particular brief, or writing, he has been known to respond only with the inquiry, "*Do you know Mr. William Green, of Richmond?*"—whom, indeed,

he has justly described in his works as "that gentleman of truly wonderful learning."

The fearless and unsparing assailant of maladministration and indecorum in office, he was a gentle and unwilling censor of human frailty in private life.

Always in touch with passing events, and in sympathy with the world around him, his heart was ever young and sparkling. The amiability of his character, and his animated, instructive and engaging conversation, rendered him the choicest and most pleasurable of companions. His well-bred gayety became infectious, and laughter epidemic. That, indeed, must have been *nox embrosiana*, in which, over the rarity of a second bottle, he dissected with Mr. William Green and with Mr. James Alfred Jones (his former disciple and his life-long friend) the learned and delightful dialogue between Surrebutter and the shade of Crogate. (7 Rob. Pract. 1074.)

Reared in a period and amongst a community which found in Dryden and in Pope the most classic of English, he knew no other river at Richmond than the "Jeems," divided his arguments at the bar into "pints," and, when engaged at his desk, was seated in a "cheer."

Invariably genteel in attire, he surpassed Charles O'Connor and Mr. Evarts in the hopelessness, and in the adjustment, of his venerable beavers. Though not, perhaps, connected therewith by formal membership, he was an attendant of the Episcopal Church, with which his family were in communion, and whose lawn had been piously worn in England by more than one of his ancestors. His whole life was a religion, for it was ever obedient to the will of Heaven.

Lit by eyes of azure, his beardless features were singularly handsome, and of Grecian profile. His fair complexion was delicately colored, and his hair, though whitened with years, preserved its abundance.

From pneumonia, "strict in" its "arrest," he passed from earth on the 30th of January, 1884, leaving a widow and, also, five children, three of whom were daughters.

Himself born when Jefferson had but fairly entered on a second term, Mr. Robinson had been filled with the best traditions of the birth and infancy of his country. He had accompanied her adult existence and was familiar with all therein that now occupies a place in history.

He expired, like his venerated Marshall, at Philadelphia, and his

remains, having been removed, like those of Marshall, to Richmond, were interred in Hollywood.

And not in Hollywood, not in the royal acre of Westminster, lies dust more learned, more knightly, more gentle or more guiltless.

JOHN SELDEN.

Washington, D. C.

THE BICYCLE IN COURT.

So recent has been the introduction of the modern bicycle that in the Century Dictionary a bicycle is still defined as a two-wheeled machine, one wheel of which is of great size, and propelled by pedals attached to the axle of the large wheel—a definition which would hardly be acceptable to a believer in the modern "safety."

But whatever its shape, the bicycle has presented to the courts some new questions, which, however, have been solved without difficulty, and with a unanimity rather unusual in the early decisions on a new and novel question.

When the bicycle was first brought to the notice of the courts they were inclined to regard it as a toy or scientific plaything, and not of sufficient importance to be considered when its use interfered with the general public convenience. Thus restrictions as to its use were upheld on the ground that a bicycle was often a public nuisance. But as the bicycle passed into the sphere of general use, it could no longer be regarded as a nuisance, and the former positions of the courts were abandoned, and the rights of the bicycle rider recognized and enforced; and at the same time his liability under statutes and ordinances passed before the introduction of the bicycle clearly defined.

There have as yet been but few decisions in the higher courts on the rights and liabilities of bicyclists, but several important principles have been laid down.

Is a Bicycle a Carriage?—The courts have been frequently confronted with the question as to whether a bicycle or tricycle can be considered a carriage, so as to come within the statutory provisions regarding the use and management of vehicles. The officials of the Treasury Department at Washington have not hesitated to subject bicycles to the